

HB 585 Sentencing Alternatives (§6-13 / pages 13-27)

99-15-107 Pre-Trial Intervention (§13 / pages 26-27)

The changes greatly expand the number of people that are eligible for PTI.

The statute now allows those that: 1) have previously been accepted into an intervention program and/or 2) have been charged with sale, barter, transfer, manufacture, distribution or dispensing of a controlled substance, or the possession with intent to do the same to be eligible for consideration and acceptance into PTI.

However,

The statute now excludes those that: 1) have been charged with any crime of violence pursuant to 97-3-2 (§39 pages 104-106) and /or 2) have been charged with an offense pertaining to trafficking in a controlled substance as provided in 41-29-139 (f).

99-15-26 Non-Adjudication (§9 / pages 17-21)

The changes greatly expand the number of people eligible for Non-Adjudication.

The statute now empowers the court in all felony and misdemeanor cases to sentence a defendant under this section if:

- 1) a plea of guilty is made on or after July 1, 2014
- 2) the crime is not a “crime against the person”
- 3) the crime is not a crime of violence pursuant to 97-3-2 (exception for misdemeanor domestic violence or felony aggravated domestic violence)
- 4) the crime is not embezzlement or fraud while in public office pursuant to 97-11-31
- 5) the crime is not trafficking of a controlled substance under 41-29-139 (f)
- 6) the crime for which the defendant previously qualified under this section is not the same crime for which the defendant is currently charged (“repeat offense”)

The statute no longer excludes prior convicted felons or defendants who have been placed on non-adjudication previously (except for those currently charged with a “repeat offense” as explained in 6) above). Additionally, the statute no longer excludes defendants currently charged with sale, barter, transfer, manufacture, distribution or dispensing of a controlled substance, or the possession with intent to do the same.

9-23-15 Drug Courts (§6 / pages 13-15)

The changes greatly expand the number of people eligible for Drug Court.

To be eligible for sentencing through a drug court the participant must meet the following requirements:

- 1) cannot have any felony conviction(s) for a crime of violence as defined in 97-3-2 “within the previous 10 years”
- 2) the crime before the court cannot be a crime of violence as defined in 97-3-2
- 3) no pending criminal proceedings alleging a crime of violence
- 4) cannot be currently charged with burglary of a dwelling
- 5) crime before the court cannot be DUI that resulted in the death of a person
- 6) crime charged cannot be trafficking in a controlled substance under 41-29-139 (f) nor can the participant have a prior conviction for the same

The statute no longer excludes defendants currently charged with distribution, sale, possession with intent to distribute, manufacture or cultivation of a controlled substance and nor does it exclude those with prior violent felony convictions as long as those prior convictions did not occur “within the previous 10 years.”

47-7-33 Probation (§10 / pages 21-22)

The change in the statute gives courts the power to sentence previously convicted felons to probation on subsequent convictions.

47-5-103 Intensive Supervision Program (§11 / pages 22-24)

The significant change to ISP (a.k.a. House Arrest) is the taking away of MDOC’s power to place inmates into the program and the increase in the power of the courts and judges to sentence defendants to ISP.

ISP may be used by the courts as an alternative to incarceration unless the defendant is sentenced for a crime of violence pursuant to 97-3-2, for a sex crime, or for a crime where death or life imprisonment is the maximum sentence that may be imposed by a court or judge.